

FISCAL IMPACT STATEMENT ON BILL NO. **S. 453**

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| TO: | The Honorable David Thomas, Chairman, Senate Banking and Insurance Committee | | |
| FROM: | Office of State Budget, Budget and Control Board | | |
| ANALYSTS: | Torina Wood, Allan Kincaid, Harry Bell, Kenneth Brown, Rodney Grizzle, and Beth Campbell | | |
| DATE: | February 21, 2007 | SBD: | 2007162 |

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| AUTHOR: | Senator Thomas | PRIMARY CODE CITE: | 37-20-110 |
| SUBJECT: | Financial Identity Fraud and Identity Theft Protection Act | | |

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

See Below

BILL SUMMARY:

Senate Bill 453 amends the Code of Laws of South Carolina, 1976, by adding Chapter 20 to Title 37 to enact the "Financial Identity Fraud and Identity Theft Protection Act". Among other things, the proposed Bill provides for protections in connection with consumer credit-reporting agencies and public bodies regarding their use, disclosure, and disposal of a person's social security number. The proposed Bill also provides for disclosure by a state agency or person conducting business in the state of unauthorized access to or acquisition of the personal identifying information of a resident whose information the agency owns or licenses.

EXPLANATION OF IMPACT:

The following agencies represent some of those most likely significantly impacted by the requirements of this Bill including the breach of security provisions of section 4. The actual cost to these agencies and the state depends on the number of offenses and the number of times there is such a breach in security, if any, and the number of persons to be notified. Sizable notification would likely result in use of substitute notification as allowed under 1-11-490 (E) (3) of the Bill.

State Budget and Control Board (Board)

A review of this Bill by Board staff indicates there will be no impact on the General Fund of the State. However, because of the type of records subject to any breaches of security, there may be an impact on Other Funds. Should a breach occur, it would cost approximately \$.31 to \$.65 per person to notify depending upon the system and number of persons to notify. As provided by the Bill, if the cost should exceed \$250,000 or the number of persons to be notified exceeds 500,000, the Board would likely use the substitute notice process and use statewide media or post notices on Board websites.

Department of Social Services (DSS)

The Department indicates this Bill would require additional funding totaling \$902,464 for each incidence of security breach. State General Funds required would total \$315,862 and Federal Funds would total \$586,601 based on 2.5 million cases. Costs would cover material needed for written notification of \$882,102 and computer programming and usage fee \$20,362. However, in such cases, the department would likely use the alternative substitute notice options as both the cost estimate and the affected class exceeds the maximums outlined in the Bill.

Department of Health and Human Service (DHHS)

The Department indicates this Bill will have a minimal impact on the General Fund of the State. The fiscal impact is dependent upon the number of Medicaid eligibles involved. Currently, the DHHS has over 825,000 Medicaid eligible clients. Depending on the number of eligibles whose information is breached, notification costs will vary. If notification costs exceed \$250,000 and since the number of persons to be notified exceeds 500,000, the DHHS would likely invoke the alternative substitute notice involving statewide media. In addition to notification costs, the maximum of \$600,000 in damages could be awarded under the current South Carolina Tort Claims Act. This Bill will have no impact on Federal and/or Other Funds.

Judicial Department

The Department indicates this Bill will have an impact on the General Fund of the State, which cannot be quantified, due to the lack of historical data on identity fraud or identity theft cases. However, should the number of cases exceed what the current pool of Circuit Court judges can absorb, delays in the circuit court docket can be expected and additional judges will be needed. The cost associated with one additional Circuit Court judge and staff (i.e., administrative assistant, court reporter and law clerk) is approximately \$347,327 for personal services and associated operating expenses and \$20,510 of non-recurring cost for automation and furniture. The addition of new judges would also require more courtroom space, an expense borne by county government.

Employment Security Commission (ESC)

The Commission estimates this Bill will have a cost to Federal Funds. The fiscal impact is dependent upon the number of individual wage earners as reported by employers. The ESC reports that there are currently 2,162,917 wage earners in the state. Should a breach occur, the cost is estimated to be \$872,075; \$865,167 for postage/ mailing supplies and \$6,908 for the salaries and benefits of mailroom employees. Since notification costs will exceed \$250,000 and the number of persons to be notified exceeds 500,000, the ESC would likely invoke the alternative substitute notice involving statewide media. There is the potential for additional costs after the initial notification, in the areas of lawsuits.

State Law Enforcement Division (SLED)

The agency indicates there will be an additional cost to the General Fund of the State totaling \$40,750 for one new position and operating costs.

Other Agencies

The State Treasurer's Office, and the Departments of Archives and History, Motor Vehicles, Consumer Affairs and Revenue each indicate enactment would have little or no impact on agency expenditures which can be absorbed within existing resources.

LOCAL GOVERNMENT IMPACT:

Responses from local governments indicates enactment would have minimal or no impact on local expenditures.

Approved by:



Don Addy
Assistant Director, Office of State Budget